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July 12, 2011

Hon. Robert P. Young, Jr.
Chief Justice
Michigan Supreme Court
Cadillac Place
3034 W. Grand Blvd., Ste. 8-500
Detroit, Michigan 48202-6034

By Email:
c/o Anne Boomer, Administrative Counsel

Re: ADM File No. 2002-24, Amendment of Rule 7.3 of the Michigan Rules of Professional Conduct, adopted May 19, 2011 and effective September 1, 2011

Dear Justice Young:

I am General Counsel of Bodman PLC and chair the firm's professional conduct committee.

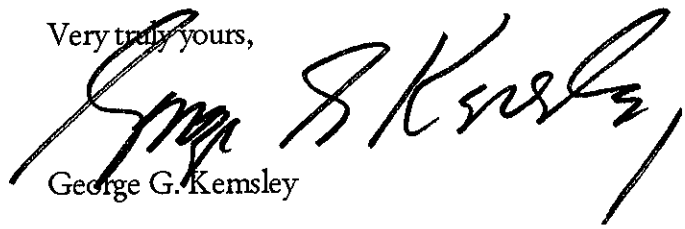
We have just reviewed a copy of the July 6, 2011 letter to the Court from Miller Canfield's CEO, Michael W. Hartmann, regarding the amendment to MRPC 7. We concur with Mr. Hartmann's comments, and join him and other commentators in urging the Court to rescind the amendment, suspend the amendment pending further comment from the Bar, or revise the amendment to clarify and narrow its scope and application.

Many large law firms represent corporate clients that are also served by other firms. Some of those clients may have engaged a firm dozens or hundreds of times over decades. If a lawyer sends a note regarding a legal development to a member of the legal staff or to an executive at one of those sophisticated corporate clients, unrelated to a specific pending representation matter, would that be considered an "advertising circular" that must be labeled as "Advertising Material" because it might encourage the selection of that firm over others on a subsequent legal matter? Is the result different if that same communication is sent by email to all of the firm's clients? Would firm announcements concerning promotions or new lawyers be considered advertising? No obvious purpose is served by discouraging such informational communications with sophisticated clients.

Similarly, many large law firms encourage their lawyers to participate in ABA committees, to serve on charitable boards, to present seminars, and to participate in other activities that increase their knowledge and skills, and that have the not-incidental effect of raising their profile. Would communications relating to such activities be considered to be "advertising circulars" because they are in part intended to enhance the stature of the lawyer or firm? We submit that it is both unnecessary and unwise to require such communications to be labeled as advertising material.

Because violations of the Rules of Professional Conduct are punished by sanctions not against law firms, but against individual lawyers, I suspect that some lawyers may avoid risk by choosing not to participate in otherwise commendable activities because they do not want to comply with the ambiguous advertising rules by labeling all of their email and other communications relating to those activities as advertising materials. Thus, in addition to all of the other deficiencies pointed out by Mr. Hartmann and by other commentators, the amendment may actually harm professionalism by discouraging lawyer participation in educational and other laudatory activities.

Very truly yours,



George G. Kemsley

GGK/ty

cc:
Hon. Michael F. Cavanagh
Hon. Diane M. Hathaway
Hon. Marilyn J. Kelly
Hon. Mary Beth Kelly
Hon. Stephen J. Markman
Hon. Brian K. Zahra
Corbin R. Davis